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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|-----------------|-------------|----------------------|----------------------|------------------|
| 10/558,279 | 11/28/2005 | Roger R. Beerli | 1700.0640000/BJD/WBC | 3685 |

26111 7590 03/31/2008
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| EXAMINER |
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MONTANARI, DAVID A

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| ART UNIT | PAPER NUMBER |
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1632

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| MAIL DATE | DELIVERY MODE |
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03/31/2008

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

| | | | |
|------------------------------|--------------------------------------|--------------------------------------|--|
| Office Action Summary | Application No. 10/558,279 | Applicant(s) BEERLI ET AL. | |
| | Examiner DAVID MONTANARI | Art Unit 1632 | |

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 1 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 11/28/2005.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-8,10-13,15-21 and 24 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☐ Claim(s) _____ is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☒ Claim(s) 1-8,10-13,15-21 and 24 are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Election/Restrictions

Restriction is required under 35 U.S.C. 121 and 372.

This application contains the following inventions or groups of inventions which are not so linked as to form a single general inventive concept under PCT Rule 13.1. Furthermore, under PCT Rule 13.2 the requirement of unity of invention referred to in PCT Rule 13.1 shall be fulfilled only when there is a technical relationship among those inventions involving one or more of the same or corresponding special technical features. The expression “special technical feature” shall mean those technical features that define a contribution which each of the claimed inventions, considered as a whole, makes over prior art.

In accordance with 37 CFR 1.499, applicant is required, in reply to this action, to elect a single invention to which the claims must be restricted.

In accordance with 37 CFR 1.499, applicant is required, in reply to this action, to elect a single invention to which the claims must be restricted.

Group I, claim(s) 1-8, drawn to a composition comprising a modified polypeptide and an adenovirus of the subtype B wherein the component of the modified polypeptide is a peptide or polypeptide.

Group II, claim(s) 1, 8, 10 and 11, drawn to a composition comprising a modified polypeptide and an adenovirus of the subtype B wherein the component of the modified polypeptide is a small organic molecule

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Group III, claim(s) 1, 8, 12 and 13 drawn to a composition comprising a modified polypeptide and an adenovirus of the subtype B antibody wherein the component of the modified polypeptide is capable of binding a cell type-specific cell surface molecule wherein the component is an antibody.

Group IV, claim(s) 1, 8, and 15, drawn to a composition comprising a modified polypeptide and an adenovirus of the subtype B wherein the component of the modified polypeptide is capable of binding a ligand of cell type-specific cell surface molecule.

Group V, claim(s) 1 and 16, drawn to a composition comprising a modified polypeptide and an adenovirus of the subtype B wherein component (a) and (b) are linked covalently.

Group VI, claim(s) 1 and 17, drawn to a composition comprising a modified polypeptide and an adenovirus of the subtype B wherein component (a) and (b) are linked via a spacer.

Group VII, claim(s) 1 and 18, drawn to a composition comprising a modified polypeptide and an adenovirus of the subtype B wherein the modified polypeptide is defined by an amino acid sequence according to SEQ ID NO:s 19 or 21.

Group VIII, claim(s) 19, drawn to a composition comprising a modified polypeptide and an adenovirus of the subtype B wherein said composition is used in medicine.

Group IX, claim(s) 1, 20, 21 and 24, drawn to a composition comprising a modified polypeptide and an adenovirus of the subtype B wherein said composition is in a pharmaceutical composition.

The inventions listed in Groups I-IX do not relate to a single general inventive concept under PCT Rule 13.1 because, under PCT Rule 13.2, they lack the same or corresponding special technical features for the following reasons: The special technical feature linking groups I-IX appears to be that they all relate to a polypeptide derived from the extracellular domain of CD46.

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However, Seya et al. teach that the extraacellular and transmembrane domains of CD46 are essential to measles-virus-mediated syncytium (1997, Biochem J. Vol. 322, pgs. 135-144).

Therefore, the technical feature linking the inventions of groups I-IX does not constitute a special technical feature as defined by PCT Rule 13.2, as it does not define a contribution over the prior art.

The special technical feature of Group I is considered to be a component which is a polypeptide or peptide.

The special technical feature of Group II is considered to be a component which is a small organic molecule.

The special technical feature of Group III is considered to be an antibody.

The special technical feature of Group IV is considered to be a ligand of a cell-type surface receptor.

The special technical feature of Group V is considered to be covalent linkage.

The special technical feature of Group VI is considered to be linkage using a spacer.

The special technical feature of Group VII is considered to be amino acid sequences 19 or 21.

The special technical feature of Group VIII is considered to be use of a compositing in medicine.

The special technical feature of Group IX is considered to be a pharmaceutical composition.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to DAVID MONTANARI whose telephone number is (571)272-3108. The examiner can normally be reached on M-Tr 8-6.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Peter Paras can be reached on 1-571-272-4517. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

David A. Montanari, Ph.D.
AU 1632

/Anne-Marie Falk/
Anne-Marie Falk, Ph.D.
Primary Examiner, Art Unit 1632